

## § 46.8

claim shall be clearly set forth and submitted with the claim.

[T.D. 7008, 34 FR 3672, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55857, Sept. 28, 1979; T.D. ATF-251, 52 FR 19342, May 22, 1987; T.D. ATF-301, 55 FR 47658, Nov. 14, 1990; T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

### § 46.8 Data to be shown in claim.

Claims to which this subpart is applicable, in addition to the requirements of § 46.7, must set forth or contain the following:

(a) A statement that the claimant paid the amount claimed as a “tax” as defined in this subpart.

(b) Full identification (by specific reference to the form number, the date of filing, the place of filing, and the amount paid on the basis of the particular form or return) of the tax forms or returns covering the payments for which refund or credit is claimed.

(c) The written consent of the owner to allow the refund or credit to the claimant (where the owner of the article on which the tax was paid has furnished the claimant the amount claimed for the purpose of paying the tax).

(d) If the claimant or the owner, as the case may be, has neither sold nor contracted to sell the articles involved in the claim, a statement that the claimant or the owner, as the case may be, agrees not to shift, directly or indirectly in any manner whatsoever, the burden of the tax to any other person.

(e) If the claim is for refund of a floor stocks tax, or of an amount resulting from an increase in rate of tax applicable to an article, a statement as to whether the price of the article was increased on or following the effective date of such floor stocks tax or rate increase, and, if so, the date of the increase, together with full information as to the amount of such price increase.

(f) Specific evidence (such as relevant records, invoices, or other documents, or affidavits of individuals having personal knowledge of pertinent facts) which will satisfactorily establish the conditions of allowance set forth in § 46.5.

The appropriate TTB officer may require the claimant to furnish as a part

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of the claim such additional information as he may deem necessary.

[T.D. ATF-42, 42 FR 8372, Feb. 10, 1977, as amended by T.D. ATF-472a, 67 FR 63544, Oct. 15, 2002]

### § 46.9 Time for filing claim.

No credit or refund of any amount of tax to which the provisions of this subpart apply shall be made unless the claimant files a claim therefor within the time prescribed by law and in accordance with the provisions of this subpart.

[T.D. ATF-42, 42 FR 8373, Feb. 10, 1977]

## BOND

### § 46.10 Bond, Form 2490.

Each claim for a refund or credit of tax on articles which the claimant or the owner, as the case may be, has neither sold nor contracted to sell at the time of filing of the claim must be accompanied by a bond on TTB Form 5620.10. The bond shall be executed by the claimant or the owner of the articles, as the case may be, in accordance with the provisions of this subpart and the instructions printed on the form. Such bond shall be conditioned that there will be no relief or shifting of the ultimate burden of the tax to any other person. The penal sum shall not be less than the amount of tax claimed on all articles which have not been sold or contracted for sale at the time of filing of the claim. Bonds required by this subpart shall be given with corporate surety or with collateral security. A separate bond must be filed for each claim.

[T.D. 6395, 24 FR 599, Jan. 28, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

### § 46.11 Corporate surety.

(a) Surety bonds required under the provisions of this subpart may be given only with corporate sureties holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds. Limitations concerning corporate sureties are prescribed by the Secretary in the current revision of the Treasury Department Circular No. 570 (refer to paragraph (c) of this section). The surety shall have

no interest whatever in the business covered by the bond.

(b) Each bond and each extension of coverage of bond shall at the time of filing be accompanied by a power of attorney authorizing the agent or officer who executed the bond to so act on behalf of the surety. The appropriate TTB officer who is authorized to approve the bond may, whenever he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or extension of coverage of bond. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed document, it shall be accompanied by a certificate of its validity.

(c) Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies) is published in the FEDERAL REGISTER annually as of the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(July 30, 1947, ch. 390, 61 Stat. 648, as amended (6 U.S.C. 6, 7); sec. 202, Pub. L. 85-859, 72 Stat. 1421, as amended (26 U.S.C. 5711))

[T.D. ATF-92, 46 FR 46923, Sept. 23, 1981, as amended by T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

#### **§ 46.12 Deposit of securities in lieu of corporate surety.**

In lieu of corporate surety, the principal may pledge and deposit securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225.

#### **§ 46.13 Authority to approve bonds.**

An appropriate TTB officer may approve all bonds required by this subpart.

[T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

#### **§ 46.14 Termination of liability.**

Bonds on TTB Form 5620.10 will be terminated by the appropriate TTB officer on receipt of satisfactory evidence that the person giving the bond has disposed of the articles covered by the bond and that he bore the ultimate burden of the amount claimed and that no understanding or agreement exists whereby he will be relieved of such burden or shift such burden to another person.

[T.D. 6395, 24 FR 599, Jan. 28, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

#### **§ 46.15 Release of pledged securities.**

Securities of the United States, pledged and deposited as provided by § 46.12, shall be released only in accordance with the provisions of 31 CFR part 225. When the appropriate TTB officer is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the appropriate TTB officer may, for proper cause, extend the date of release for such additional length of time as he deems necessary.

[T.D. 6395, 24 FR 599, Jan. 28, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

### **PENALTIES**

#### **§ 46.16 Penalties.**

It is an offense punishable by fine and imprisonment for anyone to make or cause to be made any false or fraudulent claim upon the United States, or to make any false or fraudulent statements, or representations, in support of any claim, or to falsely or fraudulently execute any documents required by the provisions of the internal revenue laws, or any regulations made in pursuance thereof.

### **Subpart B—Administrative Provisions**

SOURCE: T.D. ATF-472, 67 FR 8880, Feb. 27, 2002, unless otherwise noted.